

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: Fiscal Officers of All Taxing Units
FROM: Brian E. Bailey, Commissioner *BEB*
RE: Circuit Breaker Exempt and Nonexempt Funds
DATE: May 20, 2011

On May 5, 2010, the Department of Local Government Finance ("Department") released guidance ("2010 Guidance") in cooperation with the State Board of Accounts and the Auditor of State concerning the effect of the property tax caps on certain types of local government funds. The recently enacted House Enrolled Act ("HEA") 1004-2011 makes changes to the Indiana Code relevant to the 2010 Guidance. The purpose of this memorandum is to update the guidance previously issued with the changes made in the 2011 Legislative Session. For a copy of the 2010 Guidance, see http://www.in.gov/dlgf/files/100505_-_Bailey_Memo_-_Exempt_and_Nonexempt_Rates_and_the_Circuit_Breaker.pdf.

Debt service funds that are not exempt from property tax caps

The 2010 Guidance indicated that debt service funds that are not exempt from the property tax caps will experience a revenue reduction as a result of the property tax caps. It further stated that if the debt service fund did not have sufficient revenue to meet its obligations, the money must be appropriated from another fund and may not be transferred from another fund to the debt service fund.

HEA 1004-2011 affirms the 2010 Guidance that the debt service fund will be affected by the property tax caps. However, it did change the law to permit (but not require) a unit to transfer funds from another fund to the debt service fund in the event of a shortfall. IC 6-1.1-20.6-10.

Debt service funds and voter-approved charges that are exempt from property tax caps

Certain revenues are exempt from the property tax caps. These include revenues for debt issued before July 1, 2008 in Lake and St. Joseph Counties, as well as revenues that result from a successful referendum (school operating or controlled project). The 2010 Guidance indicated that debt service and referendum funds that are exempt from the property tax caps will not experience a revenue reduction as a result of the property tax caps.

HEA 1004-2011 reinforces the 2010 Guidance by stating that "the total amount collected from exempt taxes shall be allocated to the fund for which the exempt taxes were imposed as if no credit were granted under IC 6-1.1-20.6-7 or 7.5 (*which establishes the property tax cap credit*)."

The total amount of the loss in revenue resulting from the granting of credits under section IC 6-1.1-20.6-7 or 7.5 must reduce only the amount of nonexempt property taxes distributed to a fund in proportion to the nonexempt rate tax imposed for that fund relative to the total of all nonexempt tax rates imposed by the taxing unit.” IC 6-1.1-20.6-9.8.

Please direct questions to Deputy Commissioner Sarah Ancel at 317.234.4376 or sancel@dlgf.in.gov.